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Ex-F.B.I. Agent, Accused of Espionage, Testifies

By JUDITH CUMMINGS

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LOS ANGELES, June 11 — Richard W. Miller, the first agent of the Federal Bureau of Investigation ever charged with spying, was granted immunity today as he took the witness stand to testify at the trial of two Soviet émigrés accused as co-conspirators in espionage.

Mr. Miller is accused of plotting with Svetlana and Nikolay Ogorodnikov to pass secret F.B.I. documents to the Soviet Union for \$65,000. Mr. Miller's trial on the charges is to follow that of the Ogorodnikovs in Federal District Court here.

When a prosecutor, Bruce G. Merritt, first asked Mr. Miller a question, he invoked his Fifth Amendment right not to be required to incriminate himself. "Upon the advice of my counsel, and contrary to my own desires," Mr. Miller said, he would decline to testify.

Mr. Miller, who was urged by Judge David V. Kenyon to be certain he was speaking his own mind and not that of his attorneys, replied, "I never had anything to hide."

"When I first reported it to the F.B.I.," he said, referring to his involvement with the Russian couple, "it was my desire to tell the truth and nothing but the truth." He added that he felt compelled to follow his attorneys' advice "by the nature of the situation in which we have all been placed."

Judge Kenyon signed a prepared order that any testimony given by Mr. Miller in this trial not be used against him later.

Mr. Miller was dismissed from the F.B.I. in October shortly before he was arrested on espionage charges. He had worked for the bureau since 1964.

He testified that beginning in 1979, when he was assigned to a office of the Los Angeles division in Riverside, Calif., he began having serious emotional, marital and job-related problems. He said he was put on 90-day probation in the spring of 1981 because of problems with his work, including being overweight under the bureau's standards.

He said that his supervisor rated his work "below acceptable level" because he did not complete his investigations and reports on time.

Mr. Miller acknowledged to the prosecutor that he had written a memorandum at that time describing himself as suffering from depression, chronic back problems and "severe pressures of work." Mr. Miller said the memorandum was intended to head off a transfer back to Los Angeles, which he said he feared would lead his wife to file for divorce.

The Government has contended that Mr. Miller was a "perfect target" for recruitment by the Russian intelligence agency because he was troubled at his job and plagued by marital and financial problems. Mr. Miller, who is 48 years old, became involved in a romantic affair with Mrs. Ogorodnikov in spring of 1984 when he was working with the Soviet émigré community as a member of the bureau's foreign counterintelligence squad here.

Mr. Miller and Mrs. Ogorodnikov have acknowledged having an intimate affair but have denied spying.

Suspension Over Weight

Mr. Miller testified that he was transferred to Los Angeles in December 1981 over his objections and that in May 1982 and in September 1983 he was censured for his weight. The second time, he said, he received a one-week suspension without pay and a three-month probation from an assistant director of the F.B.I. in Washington.

Mr. Miller said that by April 1984, when he was censured for his weight again, he weighed 227 pounds. He is about 5 feet 10 inches tall.

The former agent testified he had told his supervisor he could not control his weight because of marital, not financial, trouble. "I never really had financial problems," he said. "My wife was the biggest problem. It was hard to run a family of 8 — 10, really — on the weekends."

Mr. Miller and his wife, Paula, have eight children.